

AO 91 (Rev. 11/11) Criminal Complaint

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UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States Courts
Southern District of Texas
FILED

December 14, 2020

David J. Bradley, Clerk of Court

United States of America
v.

Case No.

4:20mj2523

KODY NICHOLAS BOHAC

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 4/8/19, 1/4/20, 1/6/20, 7/14/20 in the county of Walker in the
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

18 USC 2261A(2)(B)
18 USC 2252A(a)(5)(B)
18 USC 2252A(a)(2)(B)

Cyber Stalking
Possession of Child Pornography
Receipt of Child Pornography

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.


Complainant's signature

Derrick W. Austin, FBI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 12/14/2020City and state: Houston, Texas


Judge's signature

United States Magistrate Judge Frances H. Stacy

Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Derrick W. Austin, being duly sworn, depose and state:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI). I have been a Special Agent of the FBI since September 2017. I am currently assigned to the Houston Division, Bryan Resident Agency. I am charged with the duty of investigating violations of the laws of the United States, collecting evidence in cases in which the United States is or may be a party in interest, and performing other duties imposed by law. During my assignment with the FBI, I have participated in the execution of search warrants for documents and other evidence, including computers and electronic media, in cases involving the use of computers and other electronic means to facilitate the sexual exploitation of victims to include child pornography offenses. I have both led and assisted in the investigation of cases involving child exploitation. I have received training in the area of child pornography and child exploitation, and I have had the opportunity to observe and review examples of child pornography in various forms of media including computer media. This Affidavit is being made in support of a criminal complaint and arrest warrant for KODY BOHAC, residing at 2209 Bobby K Marks Dr. #69, Huntsville, Texas, 77340, located in the Southern District of Texas.
2. I am familiar with the information contained in this Affidavit based upon the investigation I have personally conducted and based on my conversations with other law enforcement officers involved in this investigation. Because this Affidavit is being submitted for the limited purpose of securing a criminal complaint and arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause to believe KODY BOHAC has violated: Title 18 U.S.C. §§ 2261A(2)(B), which makes it a federal crime for a person to, among other things, harass, or intimidate another person, by using the mail, any interactive computer service or electronic communication service or electronic communication system of interstate commerce, or any other facility of interstate or

foreign commerce to engage in a course of conduct that causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress to a person, Title 18 U.S.C. §§ 2252A(a)(5)(B), which, among other things, makes it a federal crime for any person to possess an image of child pornography, and Title 18 U.S.C. §§ 2252A(a)(2)(B), which makes it a federal crime for a person to receive any material that contains child pornography.

3. As a result of the investigation described more fully below, there is probable cause to believe KODY BOHAC violated federal law, including 18 U.S.C. §§ 2261A(2)(B), 18 U.S.C. §§ 2252A(a)(5)(B), and 18 U.S.C. §§ 2252A(a)(2)(B) while in the Southern District of Texas.

Underlying Investigation and Probable Cause

4. The FBI Houston Division, Bryan Resident Agency, was contacted in October 2019 by the FBI Philadelphia Division in regard to a complaint their office had received regarding a female Pennsylvania college student being harassed by an Instagram user (username: anthony_thomas971) and a Facebook account using the name “Kody Bohac”. Instagram user anthony_thomas971 sent the female a direct message on Instagram on or about April 8, 2019 that contained nude photos of the female with the message “Hey babe. Respond to me or these go public *kissing emoji*”, “And I have tons more”. Later, on the same day, the female received a Facebook message on Facebook’s Messenger application from Facebook user “Kody Bohac”. User “Kody Bohac” sent two images of the female’s nude upper body with the message “Wow, is this really you?” and “If you want to talk to me on snapchat I’ll tell you who posted them.” The female didn’t respond to the messages and didn’t produce any additional explicit material.
5. After being contacted by the “Kody Bohac” Facebook account and anthony_thomas971 Instagram account, the victim, along with several of the victim’s acquaintances, friends, and family were contacted by multiple unknown individual(s) using an anonymizing application to shield their identity. The unknown person(s) told the female’s family and friends that her nude images were on various Internet websites. Investigation later determined that nude images of the female had been

posted on several Internet websites.

6. Through later analysis of BOHAC's cell phone your Affiant noted numerous visits to some of the websites where the victim's images were leaked.
7. On or about April 9, 2019, the day after the victim was initially contacted, the victim's best friend was sent a follow request from the "anthony_thomas971" Instagram account. The friend didn't respond to the request.
8. The victim was contacted via text message on June 12, 2019 by an unknown person utilizing an identity anonymizing application. The unknown person sent a video to the victim depicting the recording of a laptop screen on which the victim's resume and videos depicting the victim having sex were displayed. A video depicting similar content was later located on a USB device seized during a search of BOHAC's residence in July 2020 pursuant to a court authorized search warrant.
9. A subpoena was served on Facebook for the basic subscriber information for the "anthony_thomas971" Instagram account. Subpoena returns from Facebook for Instagram user "anthony_thomas971" revealed a registered email address on the account of "KODY.BOHAC1@gmail.com". Also provided in the return were Internet protocol (IP) addresses utilized to both register and log-in to the "anthony_thomas971" Instagram account. The IP address used to create the account was also the same IP address that was used numerous times to log-in to the account from January 2019 – April 2019. The Internet Service Provider (ISP) responsible for this IP address was identified and a subpoena for records was served on the ISP for information on the subscriber of the IP address. The ISP provided records that identified the allocated user for the IP address as the Armory on Sam Houston, 2257 Sam Houston Ave. Unit 346, Huntsville, Texas 77340.
10. A subpoena requesting basic subscriber information for email account "KODY.BOHAC1@gmail.com" was served on Google in November 2019. Google's response in November 2019 provided the basic subscriber information for account: KODYBOHAC1@gmail.com. The account holder's registered name was listed as "KODY BOHAC"

and a telephone number of 1-512-620-1931 was also listed. Through law enforcement database checks it was determined telephone number 1-512-620-1931 was associated with KODY BOHAC of Huntsville, Texas.

11. In October 2019 the FBI Bryan Resident Agency contacted Sam Houston State University Police Department (SHSU PD) regarding BOHAC residing in their jurisdiction. Through conversation with SHSU PD officials it was determined BOHAC was the subject of a pending, unrelated, stalking investigation being conducted by their agency. As a result of that investigation BOHAC was arrested on July 14, 2020 at his residence, the Armory on Sam Houston, 2257 Sam Houston Ave. Unit 346, Huntsville, Texas 77340. Simultaneously, a state search warrant was executed on BOHAC's residence and several items were seized, to include digital media. SHSU PD provided a copy of the forensic extractions of relevant digital media to the FBI for review. During the search warrant execution BOHAC discarded a cell phone into a toilet inside the apartment. Law enforcement retrieved the phone and were later able to perform a forensic extraction of the phone's contents. BOHAC was charged with Tampering with Physical Evidence. BOHAC was released on bond on the pending state charges.
12. In July 2020 your Affiant conducted a review of a USB device provided by SHSU PD. The USB contained the extraction report for a SanDisk USB that was seized under the authority of the state search warrant on July 14, 2020 at BOHAC's residence. Located on the device was a folder labeled with the Pennsylvania college student victim's name with a ".DELETED" suffix. Within the folder were approximately 211 images and 13 videos depicting what appears to be the female Pennsylvania college student and her former boyfriend. Many of the images depict the female nude, or in varying states of undress. Video files depict what appear to be the female victim and former boyfriend having sex. Some images depict the female in a college cheerleading uniform. Two images depicting the female topless resemble the images sent by the "Kody Bohac" Facebook account to the victim in April 2019.

13. On November 30, 2020 Sam Houston State University Police contacted your Affiant and advised the forensic extraction was complete for the cell phone and laptop that were seized during the state search warrant execution on July 14, 2020. During a review of the extraction report for the cell phone in December 2020, your Affiant observed multiple images and videos depicting child pornography, including, but not limited to the following:

- a. A video which depicts a minor female removing an adult male's pants and performing oral sex on the adult male's penis. The file path for this video is: data/Root/data/kik.android/cache/47ea3ddb-4315-400a-ae64-07af11de6c6f/chatVids/b4fa6f32-d86f-42b6-b071-de9fdf203254.mp4 with a created date of 1/4/2020 at 10:34:34 AM.
- b. A video which depicts a prepubescent female performing oral sex on a prepubescent male's penis. An unseen third party applies what appears to be a lubricant to the prepubescent female's anus and the prepubescent male appears to stimulate the female child's anus area. The file path for this video is: data/Root/data/kik.android/cache/233ec616-f2a1-46d4-9095-1a8216ac557b/chatVids/0bb6383f-eba1-4550-a10a-75134dd57c45.mp4 with a created date of 1/6/2020 at 2:22:27 AM.

The two videos located on the extraction report for BOHAC's cell phone indicate the videos were received via the installed Kik application on the above mentioned dates.

14. Kik is an instant messaging application for mobile devices. The app is available on most iOS, Android, and Windows Phone operating systems free of charge. Kik uses a smartphone's data plan or Wi-Fi to transmit and receive messages. Kik also allows users to share photos, sketches, mobile webpages, and other content. Prior to use, Kik Messenger requires users to register an account with a username and password. Your Affiant observed the Kik application was downloaded on the phone with a "purchase date" of 9/24/2019 at 12:47:27 AM.

15. Based on my training and experience, the videos above found on BOHAC'S cell phone meet the federal definition of child pornography as defined by Title 18 U.S.C. § 2256.

16. Based on the above information, there is probable cause to believe that on or about April 8, 2019 KODY BOHAC was in violation of 18 U.S.C. §§ 2261A(2)(B), which makes it a federal crime for a person to, among other things, harass, or intimidate another person, by using the mail, any

interactive computer service or electronic communication service or electronic communication system of interstate commerce, or any other facility of interstate or foreign commerce to engage in a course of conduct that causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress to a person.

17. Probable cause also exists to believe that on or about July 14, 2020 KODY BOHAC was in violation of 18 U.S.C. §§ 2252A(a)(5)(B), which, among other things, makes it a federal crime for any person to possess an image of child pornography.
18. Probable cause also exists to believe that on or about 1/4/2020 and on or about 1/6/2020, KODY BOHAC was in violation of 18 U.S.C. §§ 2252A(a)(2)(B), which makes it a federal crime for a person to receive any material that contains child pornography.



Derrick W. Austin
Special Agent, FBI

Subscribed and telephonically sworn before me this 14th day of December 2020 and I find probable cause.



Honorable Frances H. Stacy
United States Magistrate Judge